

REMARKS

Applicant requests the Examiner to reconsider and withdraw the rejection under 35 U.S.C. § 112, second paragraph, because the new claims 10-23 address the Examiner's stated grounds in support of this rejection.

Applicant respectfully traverses the rejection under 35 U.S.C. § 102 based on anticipation by Brizzi '300. Such a rejection requires that Brizzi disclose, either expressly or inherently, each limitation of each rejected claim, or in other words, that each claim be **readable** on Brizzie's disclosure. Applicant respectfully submits that clearly such is **not** the case here with respect the new claims 10-23.

Applicant also respectfully traverses the rejection under 35 U.S.C. § 103(a) based on unpatentability (obviousness) over the same Brizzi reference. The basis of this traversal is that Brizzi does not disclose or even suggest all of the limitations of the new independent claims 10 and 11 and the dependent claims 12-23.

1. The new claim 10 is limited to the embodiment having having an outwardly directed round projection as shown for example in Fig. 10, where as new claim 11 is directed to the embodiment having an inwardly shaped design of the pack edges. (Original claim 1 alternatively claimed these two embodiments.)

2. For gaining an understanding of the invention the following should be considered by Examiner Demeree: The subject matter of the invention relates to the configuration of a precisely defined pack, namely a hinge-lid pack for cigarettes. This type of pack made of thin cardboard has been on the international market as a "hard box" for cigarettes since the 1930s in essentially unaltered form. The typical design features of this hinge-lid pack are:

- The hinge-lid box comprises a lower box part and a lid connected thereto, both being formed from a single-piece blank,
- fixed in the box part is a collar which partially protrudes out of the box part.

For many decades the pack has been utilized in its well-known cuboid-shaped embodiment, specifically with pack edges having a right-angled cross-section.

3. The claimed invention relates to an improved form of a cigarette pack of the aforementioned type. The principal design features of this pack have been retained unaltered. However, the upright pack edges and any transverse pack edges (Fig. 12, Fig. 14) have been contoured in a special manner. The pack edges are configured such that a round three-dimensional projection pursuant to claim 10, or an inwardly directed recess pursuant to claim 11 is created. The overall contour of the pack is cuboid in the broadest sense. But due to the special configuration of the pack edges, a special design effect as well as an improved pack handling are created. The packs according to the claimed invention are easier to hold or “grip”. The prior uncomfortable “sharp” right-angled edges have been replaced. In addition, the packs pursuant to the claimed invention are provided with greater strength and dimensional stability due to the shaped pack edges.

4. The pack edges as configured according to the claimed invention comprise an (inwardly or outwardly) deformed material strip. This is shown by way of example in Fig. 8. The material strip 46 extends between edges 36, 37 as a transition to the planar wall regions. It is important that this region of embossment 46 has a relatively larger diameter in comparison to the embossed grooves common to this type of pack, which facilitates the edge formation when the blank is formed. In the case of a conventional “standard pack”, when folding tabs delimited by such embossed lines are folded into position, there are produced the usual “sharp” pack edges

with a right-angled cross-section. In no case does it result in any outward bulge or inwardly directed deformation whose shape and dimensions might be comparable to the claimed invention. In examining the new claims, a distinction must be made between a conventional line embossment for creating a folding line, on one hand, and a geometric deformation of the material within the meaning of the invention, on the other. The intermediate edges 36, 37 of the invention are comparable to the individual embossed lines of the conventional hinge-lid pack.

* * *

In contrast, Brizzi discloses a modified embodiment of a hinge-lid pack for cigarettes in that the upright pack edges are beveled. Fig. 2 shows these beveled pack edges 12, which result in a cross-sectional shape of the pack that is overall octagonal. Such packs have been on the market since the late 1980s and are known as octagonal packs.

Each of Brizzi's beveled edges (walls 12) is delimited by two parallel folding lines or folding edges 13. These are created as a result of a blank (Fig. 1) being folded along the corresponding parallel embossed lines 17. The variously configured embossed lines 17a – 17e are shown in detail in Fig. 1. This special design arises from Fig. 3, where two parallel folding or embossed lines 17a, 17d are shown in for each of these cases. These lines result in simple folding edges or folding lines 13 corresponding to Fig. 2. **All of the lines in the examples of Brizzi's Fig. 3 are individual, parallel embossed lines which result, when folded, in simple folding edges without a projection or recess.**

In summary, none of the pending claims 10-23 is readable on Brizzi. Furthermore, Brizzi does not disclose or even suggest all of the limitations of any of the pending claims.

Therefore, Applicant respectfully requests the Examiner reconsider withdrawal all rejections and to find the application to be in condition for allowance with claims 10-23;

however, if for any reason the Examiner feels that the application is not now in condition in condition for allowance, he is respectfully requested to call the undersigned attorney to discuss any unresolved issues and to expedite the disposition of the application.

Applicants files concurrently herewith a multiple dependent claim fee.

Applicant also files concurrently herewith a Petition (with fee) for Extension of Time of two months.

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this application, and any required fee for such extension is to be charged to Deposit Account No. 19-4880. The Commissioner is also authorized to charge any additional fees under 37 C.F.R. § 1.16 and/or § 1.17 necessary to keep this application pending in the Patent and Trademark Office or credit any overpayment to said Deposit Account No. 19-4880.

Respectfully submitted,

/John H. Mion/
John H. Mion
Registration No. 18,879

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: December 9, 2008